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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,311	08/20/2004	Hiroshi Nishimura	13006.104	5421
7590 Fildes & Outland Suite 2 20916 Mack Avenue Grosse Pointe Woods, MI 48236		07/13/2007	EXAMINER WYROZEBSKI LEE, KATARZYNA I	
			ART UNIT 1714	PAPER NUMBER
			MAIL DATE 07/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/505,311	<b>Applicant(s)</b> NISHIMURA ET AL.	
	<b>Examiner</b> Katarzyna Wyrozebski	<b>Art Unit</b> 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) <u>NONE KIW</u>                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

In view of applicant's amendment filed 5/15/2007 following office action is final. The limitation of heat treating the sheet in claims 1 and 9 is viewed as product by process, wherein the patentable weight is given to the product and not to the process by which it is made.

***Claim Rejections - 35 USC § 102***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1, 2, 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by OBUCHI (US 5,916,950).

The discussion of the disclosure of OBUCHI from paragraph 2 of the office action dated 1/30/2007 is incorporated here by reference.

3. Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated by TANAKA (JP 2003-068387).

The discussion of the disclosure of TANAKA from paragraph 3 of the office action dated 1/30/2007 is incorporated here by reference.

As indicated earlier, this prior art can be overcome by filing certified translation of the priority documents.

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1, 2, 5-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over OBUCHI (US 5,916,950) in view of TERADA (US 6,326,440).

The discussion of the disclosure of OBUCHI and TERADA from paragraph 7 of the office action dated 1/30/2007 is incorporated here by reference.

6. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over OBUCHI (US 5,916,950) in view of IKADO (US 5,766,748)

The discussion of the disclosure of OBUCHI and IKADO from paragraph 8 of the office action dated 1/30/2007 is incorporated here by reference.

***Response to the applicant's arguments***

In their response filed on 4/30/2007 the applicants argued following:

a) The prior art of OBUCHI does not teach the new limitation of heat treatment.

The prior art of OBUCHI was utilized to reject article claims not process claims.

Applicant's new limitation puts claims in product by process form where patentable weight is

Art Unit: 1714

given to the product and not to the process by which it is made. The examiner also would like to point out that the formation of an article from the sheet is also viewed as process. Any arguments regarding a process of making the article are considered moot and will not be further addressed for claims 1-8 and 10, 12 and 13.

b) The amount of polylactic polymer in OBUCHI is 97/3 and 80/20 % by mass. Therefore the prior art of OBUCHI does not teach the present invention.

With respect to the above argument, pending claims recite that the majority of the composition is polylactic acid. Examiner views amounts of above 50% as majority (more than half). Therefore, the above argument is not commensurate with the scope of the claims.

c) The prior art of TANAKA does not qualify as a prior art.

Per MPEP and examiner's statement in the first office action on the merits the applicants are required to file certified translation of the priority document. Simple statement as set forth in applicant's argument will not cut it.

The prior art of TERADA will not be addressed since the applicants did not argue examiner's grounds of rejection. Applicants only indicated that these disclosures should not be combined.

Art Unit: 1714

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

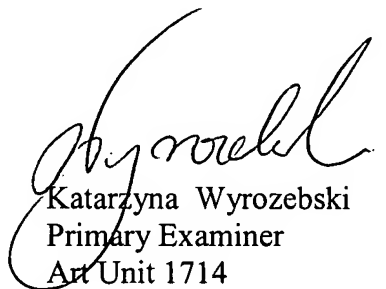
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katarzyna Wyrozebski whose telephone number is (571) 272-1127. The examiner can normally be reached on Mon-Thurs 6:30 AM-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Katarzyna Wyrozebski  
Primary Examiner  
Art Unit 1714

July 9, 2007